

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Thursday, January 13, 2022

Hearing Room 301

1:00 PM

1: -

Chapter

#0.00 You will not be permitted to be physically present in the courtroom. All appearances for this calendar will be via Zoom and not via Court Call. All parties participating in these hearings may connect from the zoom link listed below. This service is free of charge. You may participate using a computer or telephone.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

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Meeting ID: 161 579 7137

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Telephone conference lines: 1-669-254-5252 OR 1-646-828-7666

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CONT...

Chapter

Tentative Ruling:

- NONE LISTED -

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1:00 PM

1:21-10500 Restorations

Chapter 11

#1.00 Disclosure statement hearing describing chapter 11 plan of reorganization

Docket 89

Tentative Ruling:

Pursuant to 11 U.S.C. § 1125, the Court will deny approval of the *Individual Debtor's Disclosure Statement in Support of Plan of Reorganization (the "Disclosure Statement")* [doc. 89]. For the many reasons stated in the *U.S. Trustee's Objection to Disclosure Statement Describing Chapter 11 Plan of Reorganization* [doc. 124], the Disclosure Statement does not contain adequate information.

Moreover, as to class 6(a) and class 6(b), the Disclosure Statement does not even accurately describe the terms set forth in the *Individual Debtor's Chapter 11 Plan of Reorganization* [doc. 90].

With respect to any amended chapter 11 plan and related proposed disclosure statement to be filed by the debtor, the debtor could consider using the Court's optional forms F 3018-1.CH11.PLAN and F 3017-1.CH11.DISCLSR.STMT and including all of the identified exhibits for those forms.

The debtor's currently filed forms of chapter 11 plan and the Disclosure Statement are designed for **individual** debtors. Consequently, they are not appropriate for this debtor, which is NOT an individual, to use in this case.

The United States Trustee must submit the order within seven (7) days.

Party Information

Debtor(s):

Restorations

Represented By
Michael E Plotkin

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1:21-10500 Restorations

Chapter 11

#2.00 Status conference re chapter 11 case

fr. 5/20/21; 10/14/21; 11/18/21

Docket 1

Tentative Ruling:

As previously ruled by the Court, the debtor and debtor in possession has a deadline of **April 1, 2022** to confirm a chapter 11 plan. *Order Setting: (1) Deadlines Concerning Chapter 11 Plan and Disclosure Statement; (2) Continued Chapter 11 Case Status Conference; and (3) Disclosure Statement Hearing*, entered on November 19, 2021 [doc. 112].

The Court will set a hearing on the debtor's pending objections to the claims of Harlan Helvey on **February 17, 2022 at 1:30 p.m.** Mr. Helvey's responses to those objections must be filed and served no later than **January 27, 2022**. The debtor's replies must be filed and served no later than **February 7, 2022**.

The Court will continue this status conference to **1:00 p.m. on March 17, 2022**. The debtor(s) in possession or any appointed chapter 11 trustee must file a status report, addressing the debtor's progress to confirming a chapter 11 plan, to be served on the debtor's(s') 20 largest unsecured creditors, all secured creditors, and the United States Trustee, no later than **14 days** before the continued status conference. The status report must be supported by evidence in the form of declarations and supporting documents.

The Court will prepare the order.

Party Information

Debtor(s):

Restorations

Represented By
Michael E Plotkin

**United States Bankruptcy Court
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1:21-10878 Scott Carl St. Peter

Chapter 11

#3.00 Order to show cause why this bankruptcy case should not be dismissed
or converted pursuant to 11 U.S.C. § 1112(B)(4)(i)

fr. 9/9/21; 12/16/21

Docket 59

Tentative Ruling:

Moot. See calendar nos. 4 and 5.

Party Information

Debtor(s):

Scott Carl St. Peter

Represented By
Lionel E Giron

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1:00 PM

1:21-10878 Scott Carl St. Peter

Chapter 11

#4.00 U.S. Trustee Motion to dismiss or convert case under 11 U.S.C. § 1112(b)

Docket 98

Tentative Ruling:

Grant and convert the case to one under chapter 7.

Based upon the Court's review of the debtor's schedules of assets and liabilities and statement of financial affairs, and the *Supplement to Reply of the United States [Docket No. 68] to the Debtor's Response to the Court's Order to Show Cause Why This Bankruptcy Case Should Not Be Dismissed or Converted Pursuant to 11 U.S.C. § 1112(b)(4)(i) [Docket No. 59] [doc. 117]*, the Court concludes that it is in the best interest of creditors and the estate to convert this case to one under chapter 7, rather than to dismiss this case. See *In re Staff Investment Co.*, 146 B.R. 256, 261-62 (Bankr. E.D. Cal. 1993) (converting chapter 11 case to chapter 7 pursuant to section 1112(b)).

The United States Trustee must submit the order within seven days.

Party Information

Debtor(s):

Scott Carl St. Peter

Represented By
Lionel E Giron
Joanne P. Sanchez

Movant(s):

United States Trustee (SV)

Represented By
Katherine Bunker

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1:21-10878 Scott Carl St. Peter

Chapter 11

#5.00 Status conference re chapter 11 case

fr. 7/22/21; 8/19/21; 9/9/21; 12/16/21

Docket 1

Tentative Ruling:

Pursuant to 11 U.S.C. §§ 105 and 1112(b)(1) and (4)(E), this case will be converted to a case under chapter 7. In addition to the facts stated in the United States Trustee's pending motion to dismiss or convert the case, the debtor has not complied with the Order requiring him to file and serve a case status conference report 14 days before this status conference [doc. 108]. Consequently, the Court concludes that there is cause to dismiss or convert this case.

Based upon the Court's review of the debtor's schedules of assets and liabilities and statement of financial affairs, and the *Supplement to Reply of the United States [Docket No. 68] to the Debtor's Response to the Court's Order to Show Cause Why This Bankruptcy Case Should Not Be Dismissed or Converted Pursuant to 11 U.S.C. § 1112(b)(4)(i) [Docket No. 59] [doc. 117]*, the Court concludes that it is in the best interest of creditors and the estate to convert this case to one under chapter 7, rather than to dismiss this case. See *In re Staff Investment Co.*, 146 B.R. 256, 261-62 (Bankr. E.D. Cal. 1993) (converting chapter 11 case to chapter 7 pursuant to section 1112(b)).

Party Information

Debtor(s):

Scott Carl St. Peter

Represented By
Lionel E Giron

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1:21-11875 Top Flight Investments, LLC

Chapter 11

#6.00 Status conference re: chapter 11 case

fr. 12/23/21

Docket 33

Tentative Ruling:

Continue chapter 11 case status conference to be held at **1:30 p.m. on January 27, 2022**, concurrently with the pending motion to dismiss filed by Sound Equity High Income Debt Fund LLC [doc. 53].

Appearances on January 13, 2022 are excused.

Party Information

Debtor(s):

Top Flight Investments, LLC

Represented By
Matthew Abbasi

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1:30 PM

1:11-10418 Gary L Glasband

Chapter 11

#7.00 Motion For An Order Enforcing Plan Injunction, Injunction,
And Sanctions In The Amount Of \$40,626.95 Pursuant To
11 U.S.C. section 105 And Bankruptcy Court Rules 9014 And 9020

fr. 9/23/21; 11/18/21

STIP TO CONTINUE FILED 1/12/22

Docket 127

***** VACATED *** REASON: order entered continuing hearing to 2/17/22
at 1:30 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary L Glasband

Represented By
Robert M Yaspan

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1:20-10026 Joseph Wanamaker

Chapter 7

#8.00 Motion Pursuant to Rule 9011 for Attorney's Fees, Costs and Sanctions
Against Creditors The Affiliati Network and Sanjay Palta, and Their
Attorneys Brett Curlee, Travis Corder and Stella Havkin

Docket 339

Tentative Ruling:

Deny.

Applying the standards set forth below, and using an objective test, the Court finds and holds that the respondents and their counsel did not violate Federal Rule of Bankruptcy Procedure ("FRBP") 9011 in connection with signing, filing and advocating their objection to the debtor's claim of exemption under Cal. Civ. Proc. Code § 703.140(b)(5), set forth in his amended schedule C [doc. 290], to three lithographs.

Pursuant to FRBP 9011(b)—

By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, --

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or

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belief.

Chapter 7

"An award of sanctions for a violation of FRBP 9011 or its counterpart in the FRCP, Rule 11, is an exceptionally serious matter, and is reserved for those rare situations in which a claim or defense is asserted without any evidentiary support or legal basis, or for improper purposes, such as to harass or delay an opponent, or cause undue expense." *In re Quinones*, 543 B.R. 638, 646 (Bankr. N.D. Cal. 2015). "We accord the district court's determination whether to impose sanctions deference, because 'the district court is better situated than the court of appeals to marshal the pertinent facts and apply [the law].'" *Air Separation, Inc. v. Underwriters at Lloyd's of London*, 45 F.3d 288, 291 (9th Cir. 1995) (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402-03 (1990)). "Courts must apply an objective test in assessing whether the rule has been violated." *Yagman v. Republic Ins.*, 987 F.2d 622, 628 (9th Cir. 1993).

The Court will not award to the respondents any expenses and attorney's fees incurred in opposing the motion.

Respondents must submit the order within seven (7) days.

Party Information

Debtor(s):

Joseph Wanamaker

Represented By
Peter M Lively
David B Lally

Movant(s):

Joseph Wanamaker

Represented By
Peter M Lively
David B Lally

Trustee(s):

Amy L Goldman (TR)

Represented By
Leonard Pena

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1:20-10026 Joseph Wanamaker

Chapter 7

#9.00 Creditors' the Affiliati Network, Inc. and Sanjay Palta's Motion
Objecting to Debtor's Wild Card Exemption on the Fifth Amended
Schedule C Dkt. #290 and Request for Extension of Time To Further
Object Pending Potential Discovery Thereon

fr. 12/23/21

Docket 323

Tentative Ruling:

First, the Court has some doubt as to whether a debtor must "own" property to claim an exemption under Cal. Civ. Proc. Code § 703.140(b)(5) (a "wildcard exemption"). Section 703.140(b)(5) states that it applies to "the debtor's aggregate interest, not to exceed one thousand five hundred fifty dollars (\$1,550) in value, plus any unused amount of the exemption provided under paragraph (1), *in any property*." (Emphasis added). *See In re Arid*, 2020 WL 3635877 *3 (Bankr. C.D. Cal. April 21, 2020) (holding that debtor's claim of wildcard exemption to funds in his bank account, which allegedly included funds owned by debtor's wholly-owned limited liability corporation, was valid). *See also In re Gilman*, 887 F.3d 956, 965-66 (9th Cir. 2018) (under California law, debtor need not hold title to real property to claim homestead exemption); and *In re Elliott*, 523 B.R. 188, 196 (B.A.P. 9th Cir. 2014) (conveyance to third party does not defeat debtor's right to homestead exemption under California law; "continuous residency, rather than continuous ownership," is required for homestead exemption).

Assuming that the debtor must "own" the Muhammad Ali Griffiti Lithograph and two Bob Dylan Lithographs (collectively, the "Lithographs") in order to maintain the claimed wildcard exemption, as set forth in the debtor's amended schedule E [doc. 290], the Court will set an evidentiary hearing to provide for the cross-examination of the debtor as to his ownership of the Lithographs.

Although the debtor has changed his Rule 2004 examination testimony regarding the ownership of the Bob Dylan Lithographs, and amended his schedule B to reassert his ownership interest [*compare* amended schedules B, docs. 181 and 290], the debtor

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Joseph Wanamaker

Chapter 7

also has provided an explanation of why he has done so. Absent cross-examination, the Court is not prepared to disregard the debtor's explanation that he could not find documentation supporting his earlier representations, during his Rule 2004 examination and in an amended schedule B [doc. 181], that UR Media Group, Inc. owns the Bob Dylan Lithographs and that the debtor now believes, as indicated by his **original** schedule B [doc. 5], that he is the owner of the Bob Dylan Lithographs.

Moreover, the debtor never testified that UR Media Group, Inc. (or anyone other than the debtor) owns the Muhammad Ali Graffiti Lithograph. With respect to the Muhammad Ali Graffiti Lithograph, the debtor also has provided an explanation of his amendment of his schedules B and C, *i.e.*, that he found that lithograph in his garage, when he was preparing to vacate his residence for its sale by the chapter 7 trustee.

Under California law, the debtor bears the burden of proof on his entitlement to the claim of exemption in the Lithographs. *See In re Diaz*, 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016). Only a natural person may claim a wildcard exemption. *See* Cal. Civ. Proc. Code § 703.020(a) ("The exemptions provided by this chapter apply only to property of a natural person."). Exemption rights are fixed on the date of the bankruptcy petition. *Wolf v. Salven (In re Wolf)*, 248 B.R. 365, 367 (B.A.P. 9th Cir. 2000).

"The California exemption statutes are to be liberally construed, for their manifest purpose is to protect income and property needed for the subsistence of the judgment debtor." *In re Payne*, 323 B.R. 723, 727 (B.A.P. 9th Cir. 2005)(internal citation omitted); *see also Schwartzman v. Wilshinsky*, 50 Cal.App.4th 619, 630 (1996) ("California exemption statutes should be construed to benefit the judgment debtor.").

The Court is not aware of any case law holding that an individual debtor must provide documentary evidence demonstrating that the debtor purchased the subject personal property, in order to meet the debtor's burden of proof to maintain a wildcard exemption in that personal property. No such case law was cited by the objecting creditors.

On the other hand, if documentation exists that conflicts with the debtor's representation that he owns the Lithographs, e.g., which reflects that another entity or

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Chapter 7

individual purchased or owns that personal property, or the credibility of the debtor's testimony regarding his ownership of the Lithographs is sufficiently undermined, that may support the denial of the debtor's claim of a wildcard exemption in some or all of the Lithographs.

For example, are or have the Lithographs ever been insured? If so, who or what entity was the beneficiary of any insurance policy which covered the Lithographs, and who or what entity paid for that insurance coverage?

The parties should be prepared to discuss the setting of an evidentiary hearing regarding the debtor's claim of a wildcard exemption in the Lithographs. As of now, the Court could hold such an evidentiary hearing as early as February 25 and/or February 28, 2022.

Party Information

Debtor(s):

Joseph Wanamaker

Represented By
Peter M Lively
David B Lally

Movant(s):

The Affiliati Network, Inc.

Represented By
Brett B Curlee
Stella A Havkin

Sanjay Palta

Represented By
Brett B Curlee
Stella A Havkin

Trustee(s):

Amy L Goldman (TR)

Represented By
Leonard Pena

**United States Bankruptcy Court
Central District of California
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Thursday, January 13, 2022

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1:30 PM

1:21-10844 Michael Chulak

Chapter 7

#10.00 Debtor's motion to convert case from chapter 7 to 11

fr. 10/28/21, 12/9/21

Docket 53

***** VACATED *** REASON: Continued by stip to 2/10/22 at 1:30 pm - jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Chulak

Represented By

Michael R Totaro

Candice Candice Bryner

Trustee(s):

David Seror (TR)

Represented By

Jessica Wellington

**United States Bankruptcy Court
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1:30 PM

1:21-10844 Michael Chulak

Chapter 7

#11.00 Debtor's motion for order to compel trustee to abandon estate's
interest in real property

fr. 12/9/21

Docket 56

***** VACATED *** REASON: Continued by stip to 2/10/22 at 1:30 pm - jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Chulak

Represented By
Michael R Totaro
Candice Candice Bryner

Movant(s):

Michael Chulak

Represented By
Michael R Totaro
Candice Candice Bryner

Trustee(s):

David Seror (TR)

Represented By
Jessica Wellington
Jessica L Bagdanov

**United States Bankruptcy Court
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1:21-11956 Yarenis Y Cifuentes

Chapter 7

#12.00 Motion to vacate dismissal and extend the time to file necessary documents

Docket 9

Tentative Ruling:

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Yarenis Y Cifuentes

Represented By
Bahram Madaen

Movant(s):

Yarenis Y Cifuentes

Represented By
Bahram Madaen

**United States Bankruptcy Court
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Hearing Room 301

2:00 PM

1:20-11277 Monte Verde Ranch, LLC

Chapter 11

#13.00 Post-confirmation status conference re: chapter 11 subchapter V case

fr.09/10/20; 11/5/20; 1/14/21; 1/21/21; 3/25/21; 4/8/21; 7/22/21;
10/21/21; 12/23/21

Docket 1

***** VACATED *** REASON: Order of Final Decree entered 12/8/21. [Dkt.
230]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Monte Verde Ranch, LLC

Represented By
Ian Landsberg

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
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1:21-10978 Scott Tarnol and Amanda Tarnol

Chapter 11

#14.00 Confirmation hearing of Subchapter V Chapter 11 Plan of Reorganization

Docket 50

Tentative Ruling:

The parties should address the following:

Scott and Amanda Tarnol (the "Debtors") represent they will amend their chapter 11 plan to reflect full payment of the Class 4 claims with interest, on confirmation of the chapter 11 plan. If the chapter 11 plan is confirmed, the confirmation order must reflect the amended treatment of Class 4.

Also, the Debtors represent they will be filing a stipulation for plan treatment as to Class 2B and Class 5. As of January 10, 2022, that stipulation has not been filed.

If the stipulation is timely filed, the Court will confirm the *Subchapter V Chapter 11 Plan of Reorganization dated 29 October 2021* [doc. 50].

No later than **May 12, 2022**, the Debtors must file a status report explaining what progress has been made toward consummation of the confirmed plan of reorganization. The initial report must be served on the United States trustee and all secured creditors. The status report must comply with the provisions of Local Bankruptcy Rule 3020-1(b) AND BE SUPPORTED BY EVIDENCE. A postconfirmation status conference will be held on **May 26, 2022 at 2:30 p.m.**

The Debtors must submit the confirmation order within seven (7) days.

Party Information

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CONT... Scott Tarnol and Amanda Tarnol

Chapter 11

Debtor(s):

Scott Tarnol

Represented By
Michael Jones
Sara Tidd

Joint Debtor(s):

Amanda Tarnol

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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1:21-10978 Scott Tarnol and Amanda Tarnol

Chapter 11

#15.00 Status conference re: chapter 11 subchapter V case

fr. 7/22/21; 9/9/21; 9/23/21

Docket 1

Tentative Ruling:

See calendar no. 14.

Party Information

Debtor(s):

Scott Tarnol

Represented By
Michael Jones

Joint Debtor(s):

Amanda Tarnol

Represented By
Michael Jones

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 301

2:00 PM

1:21-11348 Gagik Sargsyan

Chapter 11

#16.00 Joint Motion to Grant In Rem Relief From Stay Pursuant to
11 U.S.C. § 362(d)(4) and Dismiss This Bankruptcy With Prejudice
Pursuant to 11 U.S.C. §§1112(b), 105(a), and 349(a)

Docket 89

Tentative Ruling:

Grant.

Movants must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movants is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movants will be so notified.

Party Information

Debtor(s):

Gagik Sargsyan

Represented By
Vahe Khojayan

Movant(s):

Gagik Sargsyan

Represented By
Vahe Khojayan
Vahe Khojayan

Trustee(s):

Andrew W. Levin (TR)

Pro Se

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1:21-11348 Gagik Sargsyan

Chapter 11

#17.00 Status conference re: chapter 11, subchapter V case
fr. 9/23/21; 10/7/21; 11/18/21; 12/23/21

Docket 1

Tentative Ruling:

See calendar no. 16.

Appearances on January 13, 2022 are excused.

Party Information

Debtor(s):

Gagik Sargsyan

Represented By
Vahe Khojayan

Trustee(s):

Andrew W. Levin (TR)

Pro Se